

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**ANTONIO MARTIN,
Plaintiff,**

v.

**MICHAEL J. ASTRUE, Commissioner of the
Social Security Administration,
Defendant.**

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No. 3:12-CV-5237-B (BF)

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the District Court's Orders of Reference, this case has been referred to the United States Magistrate Judge. Before the Court is Plaintiff Antonio Martin's ("Plaintiff") Motion for Leave to Proceed *In Forma Pauperis* (doc. 2, "Motion"). For the following reasons, the Court recommends that the District Court DENY the Motion.

Discussion

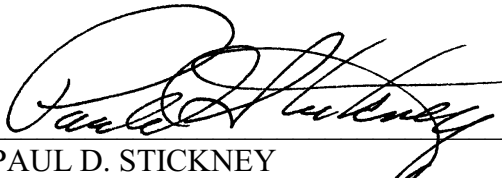
On December 24, 2012, Plaintiff filed his Motion requesting the Court to allow him to proceed *in forma pauperis* in this suit. In his Motion, Plaintiff indicated that his spouse works at the American Red Cross and receives \$3,500.00 a month in income. Plaintiff also indicated that he receives \$3,004.00 a month in VA disability income. Regarding his assets, Plaintiff described his home valued at \$175,000.00, for which he makes monthly mortgage payments, and two vehicles, a 2010 Ford Truck F-150 and a 2012 GMC Terrain, for which he and his spouse make monthly payments of \$705.00 and \$670.00, respectively. The total value of the two vehicles is estimated at \$19,000. While the Court recognizes that Plaintiff has numerous expenses, those expenses do not exceed the combined income of Plaintiff and his spouse.

In light of Plaintiff and his spouse's income, assets, and expenses, Plaintiff has failed to demonstrate that he is unable to pay the required filing fee or give security therefor, as required under 28 U.S.C. § 1915(a)(1). Instead, their combined income and assets show that Plaintiff will not suffer undue hardship by paying the \$350.00 filing fee. Thus, the Court finds Plaintiff's Motion should be DENIED.

RECOMMENDATION

The Court recommends that the District Court deny Plaintiff leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. The Court further recommends that the District Court dismiss this action for failure to prosecute, unless Plaintiff tenders the \$350.00 filing fee to the District Clerk within thirty (30) days of the filing of this recommendation.

SO RECOMMENDED, January 8, 2013.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

The United States District Clerk shall serve a copy of these findings, conclusions, and recommendation on the parties. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions, and recommendation must serve and file written objections within fourteen days after service. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory, or general objections. A party's failure to file such written objections to these proposed findings, conclusions, and recommendation shall bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the proposed findings, conclusions, and recommendation within fourteen days after service shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).